

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

LEWIS GRAY §
v. § CIVIL ACTION NO. 9:04cv254
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Lewis Gray, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Gray was convicted of the sexual assault of his stepdaughter Angel, receiving a sentence of 45 years in prison. He unsuccessfully sought relief in state court through a direct appeal and a state habeas corpus petition. In his federal habeas corpus petition, Gray argued that there was no evidence to support the charges, he was not provided with a competency hearing although he had been previously diagnosed with several mental disorders, he was denied effective assistance of counsel, and the trial court improperly dismissed one juror and allowed 11 jurors to adjudicate punishment.

The Magistrate Judge ordered the Respondent to answer, which was done. Gray filed a response to the answer and a brief in support of his contentions.

On June 22, 2005, the Magistrate Judge issued a Report recommending that the petition be denied. The Magistrate Judge analyzed each of Gray's claims individually and determined that they lacked merit. Gray filed objections to the Magistrate Judge's Report on July 7, 2005.

However, Gray's objections make no mention of the Magistrate Judge's recommended findings or conclusions. Instead, these objections declare that Gray is a "sovereign citizen" of the

United States and rapidly devolve into unintelligibility; Gray refers to “the desecration of the flag by the forming of a foreign power,” the constitutional provision barring titles of nobility, and the commission of “constructive treason,” by all of which he apparently means the judges who have heard his case thus far. Because Gray does not challenge nor even mention the Magistrate Judge’s proposed findings or conclusions, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*). His objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the answer filed by the Respondent, Gray’s response to the answer and brief in support, the state court records, the Report of the Magistrate Judge, the Petitioner’s objections thereto, and all other pleadings and filings in the case. Upon such *de novo* review, the Court has concluded that the Report of the learned Magistrate Judge is detailed, carefully discusses each issue raised, and is correct, and that the Petitioner’s objections are without merit. It is accordingly

ORDERED that the Petitioner’s objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

So **ORDERED** and **SIGNED** this 17 day of **August, 2005**.



Ron Clark, United States District Judge